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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,103

11/14/2003

Scott David D'Souza

3464-Z

8220

7590 05/12/2008  
Law Office of Jim Zegeer  
Suite 108  
801 North Pitt Street  
Alexandria, VA 22314

EXAMINER

CHAI, LONGBIT

ART UNIT

PAPER NUMBER

2131

MAIL DATE

DELIVERY MODE

05/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/712,103</p>	<p><b>Applicant(s)</b> D'SOUZA ET AL.</p>	
	<p><b>Examiner</b> LONGBIT CHAI</p>	<p><b>Art Unit</b> 2131</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 18 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-18.  
Claim(s) withdrawn from consideration: 19-24.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Longbit Chai/  
Primary Examiner, Art Unit 2131

Continuation of 11. does NOT place the application in condition for allowance because:

1. As per claim 1, Applicant asserts that "it is respectfully submitted that those skilled in the art would understand that prioritization based on ISP (i.e., on whether the router that supplies the packets supports ingress filtering) is not the same as prioritization based on whether a source address of a packet is known or unknown" (Remarks: Page 3 / 3rd Para). Examiner respectfully disagrees because Brustoloni teaches different service class (i.e. privileged or unprivileged class of service) is assigned to the packets based upon whether the source address can be recognized to be legitimate (i.e. trusted) or whose legitimacy is still to be proven (i.e. untrusted) (Brustoloni: Para [0011] - [0012]) that matches the claim language such as "whereby packets with source addresses recognized to be legitimate", as recited in the claim.
2. Alternatively (merely as an option), claim1 is rejected under Gai in view of Brock and Applicant asserts "Brock's blocking of a source address after a denial of service attack has been detected (based on frequency of occurrence of signature events) is not analogous to, or suggestive of, the claimed prioritization based on packet source addresses" (Remarks: Page 4 / 3rd Para). Examiner respectfully disagrees because, According to MPEP § 2145, in response to applicant's arguments against the references individually, Examiner notes one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). This is because (a) Gai teaches classification rules are used to associate differentiated services (DS) or quality of service (QoS) with different priorities of traffic management that corresponds QoS level to packets based on their source addresses (Gai: Column 6 Line 27 - 30 / Line 48 - 57, Column 15 Line 50 - 54 and Figure 7C / Element 742 & 746) and (b) Brock teaches monitoring the source address to prevent the denial of service attacks, a plurality of signature tables are created and ranked (with different classifications) based on likelihood of occurrence of malicious source devices and a null signature is added into the signature tables corresponding to non-malicious devices indicating no threat to the protected device (Brock: Para [0009], Para [0028], Para [0012] Line 5 - 7, Para [0015] Line 10 - 25 and Para [0032]) and as such Applicant's arguments are respectfully traversed. .